

AMENDED IN SENATE JULY 22, 2003

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY MAY 27, 2003

AMENDED IN ASSEMBLY MAY 21, 2003

AMENDED IN ASSEMBLY MAY 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 236

Introduced by Assembly Member Bermudez

(Coauthors: Assembly Members Aghazarian, Benoit, Berg, Cohn, Correa, Daucher, Diaz, Firebaugh, Haynes, Koretz, La Suer, Maze, Mountjoy, Mullin, Nunez, Pacheco, Parra, Reyes, Ridley-Thomas, Runner, Samuelian, Spitzer, Vargas, Wyland, and Yee)

January 30, 2003

An act to amend Section 2221 of, and to add Section 2232 to, the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 236, as amended, Bermudez. Physicians and surgeons.

The Medical Practice Act provides for the licensing and regulation of physicians and surgeons by the Medical Board of California.

This bill would prohibit any person from being licensed under that act who is required to register with the police as a sex offender, subject to an exception. The bill would require the board to promptly revoke the license of any person who *is subject to or* becomes subject to that

registration requirement, subject to the same exception. The bill would authorize the revoked licensee, 5 years after the revocation and 3 years after termination of parole or probation, to petition the superior court for a license reinstatement hearing. The bill would require the petitioner to provide notice to the Attorney General and the board and would allow those parties to present argument at the hearing on the petition. The bill would provide that if the court finds that the individual no longer poses a possible risk to patients, the court shall order the Medical Board of California to reinstate the license, and if the court denies relief, the license revocation would remain in place. The bill would authorize the board to issue a probationary license to a person whose license has been revoked pursuant to these provisions subject to specified terms and conditions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2221 of the Business and Professions
2 Code is amended to read:
3 2221. (a) The Division of Licensing may deny a physician's
4 and surgeon's license to any applicant guilty of unprofessional
5 conduct or of any cause that would subject a licensee to revocation
6 or suspension of his or her license; or, the division in its sole
7 discretion, may issue a probationary license to an applicant subject
8 to terms and conditions, including, but not limited to, any of the
9 following conditions of probation:
10 (1) Practice limited to a supervised, structured environment
11 where the licensee's activities shall be supervised by another
12 physician and surgeon.
13 (2) Total or partial restrictions on drug prescribing privileges
14 for controlled substances.
15 (3) Continuing medical or psychiatric treatment.
16 (4) Ongoing participation in a specified rehabilitation
17 program.
18 (5) Enrollment and successful completion of a clinical training
19 program.
20 (6) Abstention from the use of alcohol or drugs.
21 (7) Restrictions against engaging in certain types of medical
22 practice.



1 (8) Compliance with all provisions of this chapter.

2 (b) The Division of Licensing may modify or terminate the
3 terms and conditions imposed on the probationary license upon
4 receipt of a petition from the licensee.

5 (c) Enforcement and monitoring of the probationary
6 conditions shall be under the jurisdiction of the Division of
7 Medical Quality in conjunction with the administrative hearing
8 procedures established pursuant to Sections 11371, 11372, 11373,
9 and 11529 of the Government Code, and the review procedures set
10 forth in Section 2335.

11 (d) The Division of Licensing shall deny a physician's and
12 surgeon's license to an applicant who is required to register
13 pursuant to Section 290 of the Penal Code. This subdivision does
14 not apply to an applicant who is required to register as a sex
15 offender pursuant to Section 290 of the Penal Code solely because
16 of a misdemeanor conviction under Section 314 of the Penal Code.

17 SEC. 2. Section 2232 is added to the Business and Professions
18 Code, to read:

19 2232. (a) (1) Except as provided in paragraph (2), the board
20 shall promptly revoke the license of any person who *is subject to*
21 *or* becomes subject to Section 290 of the Penal Code.

22 (2) This section shall not apply to a person who is required to
23 register as a sex offender pursuant to Section 290 of the Penal Code
24 solely because of a misdemeanor conviction under Section 314 of
25 the Penal Code.

26 (b) (1) Five years after the effective date of the revocation and
27 three years after successful discharge from parole, probation, or
28 both parole and probation if under simultaneous supervision, an
29 individual may petition the superior court in the county in which
30 the individual has resided for, at minimum, five years prior to
31 filing the petition to hold a hearing within one year of the date of
32 the petition, in order for the court to determine whether the
33 individual no longer poses a possible risk to patients. The
34 individual shall provide notice of the petition to the Attorney
35 General and to the board at the time of its filing. The Attorney
36 General and the board may present written and oral argument to
37 the court on the merits of the petition.

38 (2) If the court finds that the individual no longer poses a
39 possible risk to patients, and there are no other underlying reasons
40 that the board pursued disciplinary action, the court shall order, in

1 writing, the board to reinstate the individual's license within 180
2 days of the date of the order. The board may issue a probationary
3 license to a person subject to this section subject to terms and
4 conditions, including, but not limited to, any of the conditions of
5 probation specified in Section 2221.

6 (3) If the court finds that the individual continues to pose a
7 possible risk to patients, the court shall deny relief. The court's
8 decision shall be binding on the individual and the medical board,
9 and the individual is prohibited from filing a subsequent petition
10 under this section based on the same conviction.

